

**DIRECTOR'S POLICY
OFFICE OF ADMINISTRATIVE COURTS
STATE OF COLORADO**

Topic: Directives	Policy No.:
Subject: Use of Force and Firearms	Date: February 1, 2006 By Direction Of: Michael S. Williams, Director and Chief Judge

I. Purpose

It is the intent of the Director and Chief Judge of the Office of Administrative Courts (the Director) to provide a single source of reference for certified peace officers employed as Security Officers of the Office of Administrative Courts ("OAC"), a division within the Department of Personnel & Administration, concerning the use of physical force and authorization for, discharge, training, proficiency requirements, and prudent carrying and use of weapons. As peace officers, security officers of the OAC may encounter situations that necessitate the use of physical force or a weapon to provide for the safety and welfare of the public, fellow peace officers, or other government employees, and themselves. All security officers are responsible for knowing existing procedures and directives concerning arrests, use of force, the OAC's firearms policy, and reporting requirements. All security officers shall be given a copy of this policy and shall sign a receipt, which shall be maintained in the records of the OAC.

II. Definitions

For purposes of this policy, the following words and phrases have particular meaning:

- A. "Accidental Discharge" shall mean any unintentional firing of a firearm while it is in the possession of a security officer or another person under the supervision or control of a security officer.
- B. "Certified Peace Officer" shall mean an individual who has met all the requirements for certification and has been certified as a peace officer by the Colorado Peace Officer Standards and Training Board pursuant to § 24-31-301, et seq. C.R.S. (2005).
- C. "Firearms Instructor" shall mean a peace officer or investigator designated by the Director who has completed, at a minimum, a 40-hour National Rifle Association/Federal Bureau of Investigation (FBI/NRA) or equivalent firearms instructor course, and who has performed the duties of a firearms instructor continuously without interruption exceeding one year

since completion of the instructor course.

- D. "Firearm" shall mean any firearm approved by the Director.
- E. "Security Officer" shall mean any certified peace officer employed by the OAC who is authorized by the Director to act as a peace officer and who may be authorized, pursuant to this policy, to carry a firearm in the performance of his or her duties.
- F. "Shooting Incident" shall mean any occurrence where a firearm is intentionally or accidentally discharged by a security officer, other than at an approved target on an approved range, whether or not injury or death results to any person, and whether or not property damage results.

III. Use of Force Policies

- A. The duties and responsibilities of a peace officer, at times, requires exercising control over another person. Control may be achieved through verbal means or by the application of physical force. The use of force shall, in most instances, be progressive in nature, beginning with minimal and escalating to maximum only as required.
- B. Security officers shall use and be justified in using only that amount of force necessary to:
 - 1. Defend himself, herself, or another from the imminent use of unlawful physical force; or
 - 2. Control, subdue, arrest or confine an individual over whom the security officer has legal authority to do so; or
 - 3. Prevent damage or destruction to property.
- C. In each individual event, lawful and proper force is restricted to that amount of force necessary to control and terminate unlawful resistance and to preclude any further physical attack against any security officer or any other person or property.
 - 1. In all instances where a security officer is carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person or in the process of crowd control, the use of physical force shall not exceed that permitted pursuant to § 18-1-707, C.R.S. (2005).
- D. Security officers may make arrests when acting within the scope of their prescribed duties, which includes, but is not limited to, responding to emergencies occurring within the OAC (See section IX,

infra).

- E. Security officers employed by the OAC are specifically limited to exercising their authority as a peace officer while on-duty on official OAC business, whether in an OAC office or other OAC-assigned location.
- F. Use of Firearms and Deadly Force
 - 1. A security officer may discharge a firearm or use deadly force against another person only when legally justified, when the need to do so is strong and compelling, and only as a last resort.
 - a. OAC security officers authorized to carry firearms shall be directly responsible for adhering to the requirements set forth in §18-1-701 through §18-1-707, C.R.S. (2005) (statutes relating to use of force) and §16-3-101 through §16-3-106, C.R.S. (2005) (statutes relating to arrest), all of which are incorporated herein by reference.
 - b. No security officer shall draw or brandish a firearm unless he or she reasonably believes that it may be necessary to discharge the firearm in order to protect his or her personal safety or the safety of another.
 - 2. Regardless of the nature of the crime or the legal justification for firing at a person, security officers are reminded that their basic responsibility is to protect life.
 - a. Security officers are to be particularly cautious when firing under conditions that could subject innocent bystanders to substantial danger.
 - b. A security officer shall not surrender his or her weapon to any person committing an unlawful act, except as a last resort then only when reasonably convinced that the act of giving up the weapon will save his or her life or the life of another person.
 - i. Generally, experience has shown that the danger to a law enforcement officer who finds himself at the mercy of a suspect who has the advantage is not reduced by the officer giving up his or her gun upon demand.
 - ii. Surrendering a firearm might mean giving away the

officer's or another person's only chance for survival.

- c. In all circumstances where it may be necessary to discharge a firearm or use other deadly physical force, if practical, the security officer shall identify him or herself as a peace officer and give warning of his or her intent to use such force.
 - d. "Warning" shots and intentional "wounding" shots are expressly prohibited by this policy.
3. No security officer shall fire at a moving vehicle, except in self-defense or in the defense of another person, and then only when the vehicle to be fired at is, or appears to be, intentionally being used as a weapon directed against or at the security officer or another person.

G. Reporting Use of Force

- 1. As required under § 18-8-802, C.R.S. (2005) all security officers shall report to their supervisor excessive force upon any individual used by any other peace officer in the performance of his or her duties.
- 2. Any security officer who resorts to the use of force -- including deadly force (as described in section (III)(F) above) -- shall submit a written report to his or her supervisor as soon as is practicable. Written reports shall include:
 - a. The name(s) of the suspect and any witnesses to the incident.
 - b. The circumstances of the incident.
 - c. Why it was necessary to use force.
 - d. What force was used.
 - e. Why the specific use of force was reasonable and the consequences that resulted from its use.
 - f. Any observable injuries the suspect had before and after the use of force.
 - g. Any complaints of injury made by the suspect and the security officer's response to those complaints.
 - h. Whether the security officer offered to seek medical attention and the suspect's response to that offer.
 - i. If medical attention was provided, the name of the treating medical professional and the location the treatment was provided.

IV. Authorization of Firearms

- A. Except as provided below in section (VIII)(D), or as otherwise restricted by the Director, the OAC's security officers who are Colorado certified peace officers may carry a firearm in the course of his or her duties.
- B. The Director may restrict the OAC security officer's authority to carry a firearm for any reason, including but not limited to lack of training, experience or judgment, inability to qualify with a firearm, a physical limitation (whether temporary or chronic) or for other grounds that demonstrate to the Director good cause that firearms privileges should be restricted.
- C. All security officers authorized to carry firearms shall be armed, or have readily available at all times while performing duties for the OAC, a loaded, approved firearm and sufficient ammunition for at least one reload. This provision applies unless a specific assignment, such as undercover duty, makes possession of a weapon impractical.
- D. Security officers are prohibited from carrying any firearm, approved or otherwise, while:
 - 1. He or she is on prescribed drugs or medication that could diminish his or her senses or reaction time or otherwise render his or her judgment less than acceptable.
 - 2. His or her ability to function normally in any circumstance may be impaired by any consumption of alcoholic beverages.
 - 3. He or she has suffered any injury or illness since his or her last successful qualification that may reduce his or her capability to properly control a weapon.
- E. Only OAC-issued .40 S&W caliber pistols are approved for general use by security officers. The OAC is not responsible for furnishing any weapon except the standard issue model. Ammunition carried by security officers acting under their authority, as peace officers shall be OAC issued.
- F. The Director shall issue OAC-owned weapons and maintain records of which weapons are issued to whom. The Director shall securely maintain any spare OAC-owned weapons.
- G. Any weapon suspected at any time by a firearms instructor to be unsafe or inoperable shall be inspected by a certified armorer. Any such firearm

shall not be carried, either on-duty or off-duty, until the defect has been corrected, at the expense of the owner, and has been approved by a certified armorer.

1. Each security officer shall present any and all holsters, prior to their use in any capacity with the OAC, to a firearms instructor for inspection as to their compliance with accepted safety standards for retention and security of the weapon they are to hold. Cross-draw holsters are prohibited.
2. OAC-issued weapons and holsters shall be inspected and certified as to their compliance with accepted safety standards at least annually. Written certification shall be provided to the Director.

V. Weapons Safety

- A. All weapons safety standards and policies herein established by the OAC shall be adhered to, including:
 1. Every firearm and its ammunition must be under control at all times, regardless of the activity of the security officer.
 2. Under no circumstances is any firearm, loaded or unloaded, to be pointed at or fired at any person unless it is intended to be pointed at or fired at that person for a specific purpose in accordance with the policies and procedures of the OAC, the guidelines set forth in §18-1-701 through 18-1-707, C.R.S. (2005) and §16-3-101 through 16-3-106, C.R.S. (2005), and accepted standards of care.
 3. A firearm is not to be played with at any time. Safety rules as follows must be followed at all times:
 - a. Treat all weapons as if they are loaded;
 - b. Never let the muzzle of a weapon point at anything you are not willing to destroy;
 - c. Keep your finger off the trigger and outside the trigger guard until your sights are on target and you are willing to shoot;
 - d. Always be certain of the target and beyond.
 4. All range rules of a facility used by the security officer for firearms training, qualification, competition, or other approved use must be followed and are incorporated herein by reference.
 5. Firearms in OAC offices and surrounding premises are to remain

holstered at all times unless being cleaned, inspected, or placed in a secure, locked place accessible only by the owner or possessing security officer.

- a. Any firearms cleaning or inspection on the premises is discouraged. If necessary, such shall be conducted behind closed doors and/or at a location outside possible view of the general public or non-law enforcement OAC or Department personnel.
- b. When entering a court building, security officers shall carry their badges and Department identification, and regarding carrying a firearm shall comply with the wishes/policies of the presiding judge.

VI. Care and Cleaning of Weapons

- A. Each security officer shall be responsible for proper security, care and cleaning of his or her weapon.
- B. All weapons carried by security officers shall be kept clean and in proper functioning condition at all times.
- C. All weapons shall be cleaned in a safe area as soon as is practicable, but not more than five working days, after firing.
- D. The Director may conduct unannounced weapons inspections at any time in order to ensure weapons are maintained properly. Weapons found uncleaned five working days or more after a qualification shall be noted in writing by the Director. Failure of any security officer to maintain a weapon in a clean condition may result in corrective or disciplinary action.

VII. Firearms Training

- A. Each security officer shall attend and participate in scheduled, designated firearms training sessions commensurate with the guidelines set forth in this policy.
- B. Security officers may attend firearms training sessions according to Colorado State Patrol (CSP) guidelines of at least quarterly, but must attend firearms training at least annually.

- C. All firearms training sessions will be conducted and monitored by at least one (1) firearms instructor.
- D. Range safety rules will be strictly enforced.
 - 1. Intentional violation(s) of safety rules shall subject the violator to immediate removal from the range and to disciplinary action. Each intentional violation shall be brought to the attention of the security officer's supervisor. Other violations may be brought to the attention of the security officer's supervisor at the discretion of the firearms instructor.
 - 2. Ear protection shall be worn at all times while standing near the firing range. In addition, ear and eye protection shall be worn at all times while on the firing line while shooting is in progress. No security officer shall be allowed to fire unless wearing appropriate ear and eye protection.

VIII. Firearms Qualification

- A. Security officers shall meet minimum firearms qualification standards as required in this policy. Security officer are not authorized to carry a firearm unless and until such minimum standards are met.
- B. Security officers must qualify at least annually with any weapon to be carried, including a second or off-duty weapon. Qualification must occur prior to the carrying of the weapon. No security officer is authorized to carry a weapon upon his or her person without proof of qualification.
- C. Qualification shall be through the use of the same holster or other carry method as is employed for duty use; qualification with second weapons or off-duty weapons shall be through the use of the same holster or other carry method as is employed for that weapon off the range premises. For example, if a holster is worn on the hip for duty use, the same holster must be used for qualification; if a leg holster is employed for duty use, the same holster must be used for qualification. Similarly, ammunition for reloading during qualification shall be carried in the same manner and through use of the same equipment as is used on duty.
- D. Failure to qualify after two attempts shall result in suspension of authorization to carry a firearm and may result in additional corrective or disciplinary action.
- E. The Director shall maintain qualification records of security officers. Qualification records, including absences from same, shall be provided by a firearms instructor to each security officer's supervisor and the Director.

Reasons for absences from qualifications shall be documented in writing and maintained with the qualification records. Make-up qualifications must be scheduled within the same quarter.

- F. Failure to qualify because of an unapproved absence may result in corrective or disciplinary action. Examples of approved absences include unavoidable circumstances approved in advance by the supervisor, such as court appearances and vacations, or unpredictable absences such as illness or family emergency. Absences resulting from scheduling conflicts such as witness interviews or other facets of investigations are insufficient to excuse an individual from a qualification.

IX. Responses to Potential Office Emergencies

- A. OAC security officers authorized to carry firearms are responsible for responding to potential emergencies on the premises of the Department of Personnel & Administration (“DPA”), which includes the OAC. If called upon by an individual or an alarm activated for such purpose, said security officers shall respond pursuant to their authority as peace officers as follows:
 - 1. Armed security officers shall respond forthwith to emergency calls for assistance from other persons in the DPA. Security officers responding to an emergency call for assistance shall be equipped with handcuffs for use in any and all arrests.
 - 2. Any security officer who, as a result of such response, witnesses or has probable cause to believe a crime has been or is being committed, may arrest the perpetrator of said crime. Security officers are authorized to use reasonable and appropriate physical force to effect an arrest. Where necessary, and when authorized by law, this may include even the use of deadly physical force.
 - 3. A prudent search of the arrested subject shall occur as soon as practical after the arrest.
 - 4. Security officers responding to emergency calls may exercise their authority as peace officers beyond the premises of the DPA when acting in fresh pursuit of a suspect or suspects.
 - 5. Any arrests or use of force shall be documented by the security officer(s) involved. A written report shall be provided as soon as practical to the Director.
 - 6. Any and all arrests shall immediately be reported to the Denver

Police Department (DPD). If an arrest is made as a result of an emergency call, the arrested subject shall be transported by the Denver Police Department unless the subject is to be released on a misdemeanor summons. The arresting security officer (or his agent) shall inform the DPD that a subject has been arrested and needs to be transported to jail unless the subject is to be released on a summons. The arresting security officer shall request the DPD to issue any necessary summons and to prepare the offense report. Coordination with DPD should occur regarding offense reports, follow-up investigation, etc.

X. Shooting Incidents

A. Accidental Discharge of Firearm

1. Any accidental discharge of a firearm by a security officer shall be brought to the attention of a firearms instructor and the security officer's supervisor by the security officer involved as soon as is practical regardless of the location or circumstances of the discharge. The supervisor shall cause an investigation and a report thereof to be instituted and a copy thereof delivered to the Director, as soon as is practicable together with conclusions as to reasonableness of the security officer's actions and recommendations as to any applicable disciplinary action.

B. Intentional Discharge of Firearm

In the event that a security officer is involved in an intentional discharge of a weapon, the following shall occur:

1. The security officer involved shall immediately notify local law enforcement authorities and be available to said authorities having jurisdiction in the case. Waiver of constitutional protection under the fourth, fifth, and sixth amendments is at the discretion of the security officer.
2. The security officer involved shall, as soon as is practicable, notify the following persons of the incident:
 - a. the Director;
 - b. the Chief of Operations.
3. The security officer shall make no statements to the media.
4. The security officer shall make no oral or written statements pertaining to the incident to any person except those having

jurisdiction to investigate the incident, and who are doing so in their official law enforcement capacity, prior to having an opportunity to speak with at least one of the persons listed in subsection 2 above.

5. The security officer's supervisor shall go to the security officer's location as soon as is practicable and shall obtain from the security officer and the investigating law enforcement agency a brief statement of what occurred prior to any statement being made by the security officer to any person except as described above.
6. The security officer involved shall, for the purposes of an internal OAC investigation, make a complete statement to an OAC appointed investigator designated to conduct said internal investigation. The security officer shall not, however, be required to make any such statement for said purpose until he or she has first been advised of his or her rights under Garrity v. New Jersey, 385 U.S. 493 (1967) and Gardner v. Broderick, 392 U.S. 273 (1968).
7. The security officer involved shall be placed on immediate paid administrative leave pending completion of appropriate investigations and subsequent action by the Director. In his or her discretion, the Director may convene a shoot review team comprised of individuals from within and/or without the OAC.
8. The security officer shall comply with all use of firearms and deadly force policies in Section III, including all reporting requirements.

XI. Distribution and Maintenance of Required Reports

- A. Copies of all reports required to be submitted under this policy will be forwarded by the security officer's supervisor to the Director.